IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.MC.No. 2555 of 2007()

CC.767/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KUNNAMKULAM

PETITIONER: ACCUSED

1. SANTHOSH, AGED 33 YEARS,
S/O RAMANKUTTY, CHARAKKUMALLIL HOUSE,
CHERUKODE DESOM, VALLAPUZHA VILLAGE,
PATTAMBI.

2. RAMANKUTTY, AGED 69 YEARS,
S/O KANDAN, CHARAKKUMALLIL HOUSE, CHERUKODE DESOM,
VALLAPUZHA VILLAGE, PATTAMBI.

3. BHARATHI, AGED 58 YEARS,
W/O RAMANKUTTY, CHARAKKUMALLIL HOUSE,
CHERUKODE DESOM, VALLAPUZHA VILLAGE,
PATTAMBI.

4. JISHA, AGED 3O YEARS,
W/O VIJAYAN, NELLAKKARA, THAREEPARAMBU,
KANDANAKOM VILLAGE, MALAPPURAM.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS: STATE & COMPLAINANT

1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

2. SUB INSPECTOR OF POLICE,
KUNNAMKULAM POLICE STATION, KUNNAMKULAM.

3. SMITHA, D/O NERIL VISWANATHAN,
KIZHOOR DESOM, KUNNAMKULAM VILLAGE,
THALAPPILLY TALUK.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2555 Of 2007

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Dated this the 17th day of August, 2007

ORDER

The petitioners have come to this Court with an application to quash the Final report filed against them raising allegations under Sec.498A read with 34 IPC. The crux of the contentions of the petitioners is that the alleged acts, even if the allegations were accepted in toto, will not come within the ambit of the explanation of Sec.498A IPC. I have gone through the F.I.Statement. I have gone through the Final report also. I have perused the nature of allegations raised. I have considered clauses a and b of the Explanation to Sec.498A IPC. I shall scrupulously avoid any detailed discussion on merits about the acceptability of the allegations or the credibility of the data collected. I must alertly remind myself of the nature,quality and contours of the jurisdiction of this Court under Sec.482 Cr.P.C. Meticulous consideration of the materials cannot and need not be undertaken. The possible defences need not be considered in detail.

2. Has there been failure or miscarriage of justice or an abuse of process of the Court? This is the crucial question which will have to be considered in proceedings under Sec.482 Cr.P.C. Considering the nature of the allegations, I am of opinion that this is a not fit case

where the premature termination of the proceedings can be brought about by invoking Sec.482 Cr.P.C. Certainly it shall be open to the petitioners to appear before the learned Magistrate and seek discharge at the stage of Sec.239/240 Cr.P.C, if they are entitled to be discharged.

3. They shall be entitled to contend at later stages that the allegations raised and proceed cannot be held to be sufficient to attract the culpable consequences under Sec.498A IPC.

This Crl.M.C is dismissed with the above observations

(R.BASANT, JUDGE)

sj